

**Deposition Designations for:
DARLENE J. (TONI) RILEY
December 10, 1996**

Deposition Designation Key

**Arrowood = Arrowood Indem. Co.
f/k/a Royal Indem. Co. (Light Green)**

BNSF = BNSF Railway Co. (Pink)

Certain Plan Objectors “CPO” = Government Employees Insurance Co.; Republic Insurance Co. n/k/a Starr Indemnity and Liability Co.; OneBeacon America Insurance Co.; Seaton Insurance Co.; Fireman’s Fund Insurance Co.; Allianz S.p.A. f/k/a Riunione Adriatica Di Sicurta; and Allianz SE f/k/a Allianz Aktiengesellschaft; Maryland Casualty Co.; Zurich Insurance Co.; and Zurich International (Bermuda) Ltd.; Continental Casualty Co. and Continental Insurance Co. and related subsidiaries and affiliates; Federal Insurance Co.; and AXA Belgium as successor to Royal Belge SA (Orange)

CNA = Continental Cas. Co & Continental Ins. Co. (Red)

**FFIC = Fireman Funds Ins. Co. (Green)
FFIC SC = Fireman Funds Ins. Co. “Surety Claims” (Green)**

GR = Government Employees Ins. Co.; Republic Ins. Co. n/k/a Starr Indemnity and Liability Co.

Libby = Libby Claimants (Black)

OBS = OneBeacon America Ins. Co. and Seaton Ins. Co. (Brown)

PP = Plan Proponents (Blue)

Montana = State of Montana (Magenta)

Travelers = Travelers Cas. and Surety Cos. (Purple)

UCC & BLG = Unsecured Creditors’ Committee & Bank Lenders Group (Lavender)

**AFNE = Assume Fact Not in
Evidence**

AO = Attorney Objection

BE = Best Evidence

Cum. = Cumulative

Ctr = Counter Designation

Ctr-Ctr = Counter-Counter

ET = Expert Testimony

F = Foundation

408 = Violation of FRE 408

H = Hearsay

IH - Incomplete Hypothetical

L = Leading

LA = Legal Argument

LC = Legal Conclusion

LPK - Lacks Personal Knowledge

LO = Seeking Legal Opinion

NT = Not Testimony

Obj: = Objection

R = Relevance

S = Speculative

UP = Unfairly Prejudicial under Rule 403

V = Vague

MONTANA NINETEENTH JUDICIAL DISTRICT COURT
LINCOLN COUNTY

DARLENE J. (TONI) RILEY,)

COPY

Plaintiff,)

vs.)

CAUSE NO. DV 96-111

W. R. GRACE & CO., - a Conn, a)
Connecticut Corporation and)
DOES I-V;)

Defendants.)

Taken in the Deponent's Home Located at
3724 Highway 2 West, Libby, Montana 59923
Tuesday, December 10, 1996 - 3:00 P. M.

APPEARANCES

JON L. HEBERLING, ESQ., of the firm
McGarvey, Heberling, Sullivan & McGarvey,
Esqs., 745 South Main, Kalispell,
Montana 59901,
appearing on behalf of the Plaintiff.

KELLY M. WILLS, ESQ., of the firm
Garlington, Lohn & Robinson, Esqs.,
199 West Pine Street, P. O. Box 7909,
Missoula, Montana 59807-7909,
appearing on behalf of the Defendant.

DEPOSITION OF MRS. DARLENE J. (TONI) RILEY

Reported by Carroll B. Copeland, CSR, RPR,
Official-Freelance Court Reporter

1 W. R. Grace?

2 A. He was a boss.

3 Q. Does Donald Riley have any respiratory
4 problems?

5 A. Yes.

6 Q. What problems does he have?

7 A. He has asbestosis I think. I am not
8 sure what the proper terminology is.

9 Q. Does he have a, is he receiving
10 disability benefits from Grace as a result of
11 these problems?

12 A. I don't know.

13 Q. Did he work at Grace for a long period
14 of time?

15 A. Yes.

16 Q. Okay. You basically have lived in
17 Libby or in Idaho your whole life; is that right?

18 A. Yes.

19 Q. Okay. Let me ask you questions about
20 where you have lived, okay. Interrogatory
21 responses indicate that until you were six years
22 old, you lived at a ranch up at Bear Creek?

23 A. Yes.

24 Q. And that was a house on the ranch
25 somewhere?

1 A. We built a home there. It had -- it
2 didn't have no asbestos in it.

3 Q. Next looks like you rented for a
4 couple of years here in Libby, a couple of months?

5 A. Two months.

6 Q. Do you know whether that home might
7 have had --

8 A. I have no idea.

9 Q. Now, your current house here at 3724
10 Highway 2 West, Libby. You believe that home had
11 vermiculite insulation?

12 A. Yes.

13 Q. And when did you discover vermiculite
14 insulation?

15 A. Shortly after I moved in.

16 Q. Okay. So back in 1972, 1973, 1974
17 somewhere in there?

18 A. Yes.

19 Q. All right. How did you discover that
20 it was vermiculite insulation?

21 A. I swept it off of that porch floor.

22 Q. Where was it coming from?

23 A. Out of the ceiling.

24 Q. Could you seal the ceiling off?

25 A. I didn't do -- you know, when we first

Libby

1 Q. Now, have you been to the mine or mill
2 owned and operated by W. R. Grace?

3 A. Yes, we played there as children.

4 Q. You played where?

5 A. We slid down the hill.

6 Q. What hill?

7 A. Zonolite hill, what they call it.

8 Q. Where is that located?

9 A. It is up Rainey Creek I think. I
10 don't -- this could be wrong. I tried to help.
11 You turn off -- I can't remember.

12 Q. I'd like you to give me directions to
13 this place where you slid and it is something that
14 you did then in the winter; is that what you are
15 telling me, slid there?

16 A. Yes, most of the kids would, Vern and
17 I did when we were dating...

18 Q. This is when the hill was covered with
19 snow, you would go sledding there?

20 A. Yes, all the kids did.

21 Q. Where is it located?

22 A. You turn off-- there is buildings down
23 by the river, down by the river as you are heading
24 north, to Eureka.

25 Q. Okay.

1 A. You turn left and you go up that road
2 and you turn up the hill. And we slid there.
3 Now, there are no trespassing signs.

4 Q. And that is something that you did in
5 the wintertime?

6 A. Yes.

7 Q. And for how many years did you do
8 that?

9 A. I married Vern at 17, 16, probably
10 two, three years.

11 Q. And would you come home dusty and
12 dirty or was there snow so that you wouldn't be
13 dusty?

14 A. There was snow.

15 Q. Were you ever otherwise at the W. R.
16 Grace mine or mill?

17 A. Down -- when I was little, we played
18 down by the railroad tracks.

19 Q. Where was that?

20 A. Down as you cross the bridge before
21 you get to the river, between the river and town
22 there is buildings there. We played there as
23 kids. We slid on it. We picked up the little
24 pieces and took them apart. Now, and this stuff
25 we picked up was slick.

Libby

1 Q. What did it look like?
2 A. Kind of shiny and dark.
3 Q. It was dark colored?
4 A. Yes, some of it. But it was, we took
5 it apart. We lit it. The kids would light it and
6 it would puff up.
7 Q. What do you mean that the kids would
8 light it?
9 A. I can't remember lighting it.
10 Q. Who were the kids?
11 A. Marilyn Edwards was one of them.
12 Q. Marilyn Edwards?
13 A. Yes.
14 Q. Is she still around?
15 A. Oh, yes.
16 Q. Is she still -- is her last name still
17 Edwards?
18 A. Yes.
19 Q. What is her name now? It was Johnson?
20 A. Yes, oh, Millie Johnson is her
21 sister.
22 Q. Okay.
23 A. And her husband, Don, also worked at
24 Zonolite.
25 Q. So you were on Zonolite property over

1 by the railroad tracks that you played on?

2 A. Yes. That is where I found my bird.

3 Q. What bird is that?

4 A. I found a pigeon when I was a little
5 girl. The pigeon poops like chickens. Birds were
6 not popular at my house. That was at Izzy
7 Carroll's house which is when I was a kid.

8 Q. You would come home dirty and dusty
9 from playing down at the railroad tracks?

10 A. Yes.

11 Q. And were you ever otherwise on W. R.
12 Grace property, the mill or the mine or anywhere
13 else there was property owned by Grace?

14 A. I was all over town. I don't remember
15 exactly.

16 Q. Were there no trespassing signs down
17 by the river where you played?

18 A. Not that I ever read. When I was a
19 kid, we could go anywhere we wanted.

20 Q. Times are different now, aren't they?

21 A. Yes, I don't think that it was an
22 improvement.

23 Q. Let's see here, on your interrogatory
24 responses it indicates that you believe that you
25 were exposed to asbestos or asbestos products

Libby

1 while you were at your grandma's house. And the
2 answer says that there was vermiculite with
3 asbestos in it. Where was the vermiculite at your
4 grandmother's house?

5 A. Garden, she had a large garden.

6 Q. Okay.

7 A. And they would get my family. And
8 they would get my family, my Uncle Sebe I believe,
9 this is what I believe, I could be wrong there. I
10 think because he could get all that he wanted
11 because it was cheap and it was in the garden. It
12 was put in the gardens. It was, I have a picture
13 of my sister and I beside the garden if you want
14 to see it.

15 Q. You played in the garden, did you?

16 A. We weeded it. You know how little
17 kids weed. We ate most of it.

18 Q. And so that is where you were exposed
19 to vermiculite?

20 A. Mom told me that grandma used to wash
21 clothes besides for Uncle Sebe, for other people,
22 and we used to beat grandma's rugs because for
23 little kids, that was fun. I remember beating the
24 rugs when I was little.

25 Q. Okay. What does that have to do with

Libby

1 this case?

2 A. Well, they just said, you said was I
3 around it.

4 Q. Well, what makes you believe that
5 there might have been some asbestos in the rugs?

6 A. What has been said in the years, it is
7 that there is a lot of the women are getting it
8 from washing their husband's clothes. And the
9 only thing that I can kick out is that I was
10 around anything like that, you know, running
11 around in Libby. Why should I wind up with this
12 disease? I didn't work there.

13 Q. What I'm trying to get out from you is
14 that you believe there might have been asbestos in
15 the rugs that you beat?

16 A. Because grandma washed the clothes of
17 men that worked up there.

18 Q. Did she take their clothes over on the
19 rugs and shake them out or something?

20 A. They took their clothes off and
21 grandma washed them.

22 Q. Men would come to your grandmother's
23 house and take their clothes off?

24 A. No, no, my uncle Sebe worked up there.

25 Q. Okay. Okay, so your uncle worked at

Libby

1 the mine and he came into the house. Was there a
2 changing room or mud room that he would change
3 clothes in or anything like that?

4 A. It was a back porch with rugs on it
5 like I have. There is --

6 Q. And you would shake those rugs out?

7 A. Uh-huh. I mean that is the only thing
8 that I can remember. That is all that I can--

9 Q. That is all that I'm trying to get
10 at.

11 A. As a child.

12 Q. You talked about playing on asbestos
13 piles near the ball field?

14 A. Yes.

15 Q. That is indicated here in your
16 responses. What are you talking about?

17 A. Marilyn and my sister, Pat have both
18 told me that we used to slide on them.

19 Q. And these are piles of asbestos?

20 A. Well, I don't know, piles of Zonolite.

21 Q. Vermiculite?

22 A. Uh-huh.

23 Q. And they were piles of vermiculite by
24 some ball field?

25 A. Well, no, down by the big buildings.

1 I would get up at 6:00 o'clock in the
2 morning and ride the bus with a little girl. Get
3 off the bus with the little girl at school, get
4 back on the bus with her, then ride the bus back
5 to the barn and then take my car. It is in the
6 general area. Go back to the house and take care
7 of her.

8 I thought that I was just run down and
9 I was tired because I was getting home at ten and
10 getting up at six. And I progressively got
11 worse.

12 And then I went to the doctor and he
13 told me that I had walking pneumonia. He gave me
14 a shot and that is, so it was significant
15 shortness of breath. That is it then.

16 Q: All right. And that shortness of
17 breath resolved, you called it pneumonia?

18 A: Yes.

19 Q: When you weren't sick, was the first
20 day that you noticed shortness of breath when you
21 were working for Cascade Cable?

22 A: Yes.

23 Q: Okay. The diagnosis of mesothelioma
24 was made in April of 1996, this is past April,
25 right?

Libby

1 A. Yes.
2 Q. Have you worked since then?
3 A. No.
4 Q. The last medical records that I have,
5 Toni, is from July of 1996. Have you had any
6 medical care since July of 1996?
7 A. Yes.
8 Q. What have you had?
9 A. I have been to see Annie Bukacek.
10 Q. Here in town?
11 A. Yes.
12 Q. All right?
13 A. I am not sure, I am confused with -- I
14 did the radiation, I went to see Doctor
15 Whitehouse, Doctor Whitehouse, if you have got his
16 records, then you have what, when I was there
17 last. And then I seen Annie since then.
18 Q. All right. You had some radiation
19 therapy this summer; is that right?
20 A. Yes.
21 Q. I couldn't tell from the record
22 whether the doctors felt that the radiation helped
23 or not?
24 A. I thought that it did.
25 Q. Did they think that it did as well?

Arrowood
Obj:
H; F

Libby

1 Did they tell you that they thought that it
2 helped?

3 A. If you ever heard Doctor Whitehouse,
4 he is a stern-faced little fellow. He said, I
5 told him I had looked at my X-rays. I said look
6 at these, these are better. And he said, a
7 little. That was his --

8 Q. That was it?

9 A. Yes.

10 Q. That is about as excited as Doctor
11 Whitehouse gets, huh?

12 Okay. I saw reference to possible
13 treatment with an experimental drug?

14 A. I want it. I mean you can't look at
15 your kids. Mom has fixed everything all their
16 lives and all of a sudden, say, you see, when I
17 had surgery, they said that they were going to cut
18 a little hole in me. If I had cancer, they would
19 close it.

20 I woke up and I am cut from here to
21 there. And I called my family. I called mom and
22 my son did, and my husband, and told everybody
23 that I was fine. Then four days later, Poof! I
24 get to tell everybody that I'm dying, now.

25 Q. Darlene, did you try the drug, this

1 A. One is, there are two experimental
2 treatment places that I know of in the United
3 States. One is Austin, Texas and one is
4 Knoxville, Tennessee.

Libby 5 Q. Okay. Looks as though you were
6 prescribed some pain medication after your
7 surgery; isn't that correct?

8 A. Yes.

9 Q. Have you been on that pain medication
10 ever since?

11 A. Yes.

12 Q. All right. Is that able to keep you
13 reasonably comfortable, the pain medication?

14 A. Takes the edge off of the pain.

15 Q. Okay. At this point, you and your
16 husband have been able to do what it takes to take
17 care of each other; is that right?

18 A. Yes.

19 Q. Haven't had anyone, any professional
20 nursing assistants come into your home?

21 A. I can't -- Vern and I help each other
22 do things. As far as people cleaning my home, to
23 thoroughly clean my home, people come and do it
24 for me.

25 Q. Does your daughter help out with any